

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
REPEALING AND CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to repeal chs. NR 590, 600, 605 and appendix I, II, III, IV and V, 610, 615, 620, 625, 630, 631, 632, 633, 635 and appendix I, 636, 640, 645, 655, 656, 660, 665, 670, 675 and appendix I, II, III, V, VI, VII, VIII and IX, 680 and appendix I, 685 and 690, and create chs. NR 660, 661 and appendix I, II, III, VII and VIII, 662, 663, 664 and appendix I, IV, V and IX, 665 and appendix I, III, IV, V and VI, 666 and appendix I, II, III, IV, V, VI, VII, VIII, IX, XI, XII and XIII, 668 and appendix III, IV, VI, VII, VIII, IX and XI, 670 and appendix I and II, 673 and 679 relating to hazardous waste management.

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Analysis Prepared by the Department of Natural Resources

1. Statutes interpreted: Sections 227.14(1m), 289.06, 289.24, 289.30, 289.41, 289.46 and 289.67, Stats., ch. 291, Stats., and s. 299.53, Stats.

2. Statutory Authority: Sections 289.05, 289.06, 289.21, 289.24, 289.30, 289.31, 289.33, 289.41, 289.43, 289.61, 289.63, 291.05, 291.07, 291.25, 299.53, 227.11(2)(a), and 227.14(1m), Stats.

3. Explanation of agency authority to promulgate the proposed rules under the statutory authority:

The proposed rules replace and update current rules that comprehensively regulate the generation, transportation, recycling, treatment, storage and disposal of hazardous waste and used oil. As authorized by s. 227.14(1m), Stats., the format of the proposed rules is similar to the federal regulations published in the code of federal regulations by the US Environmental Protection Agency (EPA) under the resource conservation and recovery act (RCRA).

When the Wisconsin legislature passed the Hazardous Waste Management Act in 1977 it set out a declaration of policy in what is now s. 291.001, Stats., regarding hazardous waste management. It found that hazardous wastes, when mismanaged, pose a substantial danger to the environment and public health and safety. To provide for proper management of hazardous waste within the state, the legislature called upon the department to develop and administer a regulatory program that met 9 specific objectives.

Section 291.001, Stats., calls for a program that: (1) Relies upon private industry or local units of government to provide hazardous waste management services, (2) Requires the transportation, storage, treatment and disposal of hazardous wastes to be performed only by licensed operators, (3) Requires generators of hazardous waste to utilize operators licensed to transport, treat, store or dispose of hazardous wastes, (4) Does not interfere with, control or regulate the manufacturing processes which generate hazardous wastes, (5) Ensures the maintenance of adequate records on, and the reporting of, the disposition of all hazardous wastes either generated in or entering this state, (6) Encourages to the extent feasible, the reuse, recycling or reduction of hazardous wastes, (7) Provides adequate care and protection of disposal facilities after the facilities cease to accept hazardous wastes, (8) Provides members of the public and units of local government an opportunity to review and comment upon the construction, operation and long-term care of hazardous waste management facilities, and (9) Meets the minimum requirements of RCRA.

In furtherance of its objectives, the legislature adopted a number of statutes setting out general and specific hazardous waste rulemaking authority. Some of these rulemaking provisions are mandatory, while others are discretionary. Section 291.05, Stats., requires the department to adopt by rule EPA's

criteria for identifying the characteristics of hazardous waste, and to adopt EPA's lists of hazardous wastes and hazardous constituents, with limited exceptions. Rules governing hazardous waste transportation are also mandated, as are rules governing specific aspects of hazardous waste generation, treatment, storage and disposal, corrective action, licensing, closure, long term care, and license and plan review and approval fees. Discretionary rulemaking authority was granted to prohibit certain methods of treatment or disposal of particular wastes, and to exempt by rule certain persons who generate, transport, treat, store or dispose of hazardous wastes if such action does not present a significant hazard to public health and safety or the environment.

Since hazardous wastes are a subset of solid wastes, rulemaking authority in various sections of ch. 289, Stats., is also relied upon by the department, in particular that authority relating to hazardous waste facility location, design, construction, operation, maintenance, closure, long term care, negotiation and arbitration, financial responsibility and licensing and recycling. Finally, the department also relies in part on rulemaking authority in s. 299.53, Stats., to regulate used oil.

4. Related statute or rule: Chapters 160, 287, 289, 292, 293 and 299, Stats., and chs. NR 2, 140, 141, 182, 500 to 590, 700 to 754 and 812, Wis. Adm. Code.

5. Plain language analysis of the proposed rule: The proposed rules define the types of materials that are regulated as hazardous waste, universal waste and used oil. The rules describe the standards that apply to anyone who generates, transports or recycles these wastes, as well as to the facilities that treat, store and dispose of the wastes.

Generators of hazardous waste are subject to a varying degree of regulation depending on the amounts and types of waste generated. Hazardous waste treatment, storage and disposal facilities are subject to extensive licensing requirements, including department review and approval, and input from the public before receiving a license to operate the facilities. Companies that recycle hazardous waste are conditionally exempt from most of the facility licensing requirements to encourage the recycling and reuse of hazardous waste that would otherwise be sent for disposal.

The rule package also includes a proposed increase to the hazardous waste plan review, license and manifest fees. The current hazardous waste fee schedule has been in place since 1994. Fee increases are proposed for two reasons. First, inflationary costs have affected salaries, fringe benefits, and supplies and services. The second reason for increasing the fees is because revenue from the hazardous waste fees approved in 1994 have never met expectations. Two new hazardous waste positions approved in the 2001-03 Biennial Budget were never filled because of lack of sufficient revenue. Based on current revenue and expenditures levels, we are projecting a deficit in the hazardous waste program revenue account at the end of FY2005. The Waste Management Program uses General Program Revenue (GPR), Program Revenue and federal grant funding to cover the costs of operating the hazardous waste program in Wisconsin. Through the last several biennial budget cycles, the amount of GPR available to the Waste Management Program has decreased. In addition, the amount of hazardous waste federal funding we receive from EPA has remained at the same level since FY1995, and was actually decreased in FY2005. As a result, we are no longer able to cover the costs necessary to operate the hazardous waste program.

If we are not able to bring in additional revenues, the Waste Management Program will need to reduce staffing levels. This will impact our ability to continue our current level of hazardous waste plan review, inspections, complaint response, and technical assistance we provide to our customers and stakeholders. These activities ensure that hazardous waste facilities are managed in ways that protect human health and

the environment. Mishandling of the generation, transport and disposal of hazardous waste can cause serious threats to human health and the environment through soil and groundwater contamination. Preventing pollution through proper management of hazardous wastes is a good investment. Reduced staffing available to work on hazardous waste management activities will also affect our ability to maintain Wisconsin's hazardous waste program authorization from EPA. Being an authorized state allows hazardous waste facility owners and operators to work directly with department staff who are familiar with and located near their facilities. If Wisconsin lost its program authorization, the hazardous waste management activities in Wisconsin would be carried out by federal EPA staff. Reduced staffing levels would also result in Wisconsin not being able to earn the federal grant money we currently receive from EPA, which would cause a further reduction in federal funding available to us.

We are proposing an increase to all hazardous waste plan review and license fees effective October 1, 2006. The majority of the proposed fee increases represent about a 3% increase per year since 1994 to account for inflation. A few of the proposed fees represent a higher percentage increase and there are some fees that are decreasing or being eliminated. In addition, we are proposing to add a per vehicle fee to the Transportation Service License fee. This will make the hazardous waste transportation license similar in structure to the solid waste transportation license. In addition, it will provide a graduated fee to reduce the impact on smaller businesses. We are also proposing an increase in the Manifest Fee from \$2 to \$6 per manifest effective January 1, 2006. Wisconsin's manifest revenue at the \$2/manifest level has never generated sufficient funds to cover the costs of managing the manifest data. The current fees are roughly half of the revenue projected when the fee was implemented in 1994. Wisconsin's current manifest fee is also significantly below that of neighboring states. See Attachment A for detail on the current and proposed fees, along with explanations for the various levels of fee adjustments. Attachment B shows hazardous waste program revenue projections with the proposed fee increases in place.

6. Summary of and preliminary comparison with any existing or proposed federal regulation: The proposed rules are based on the current federal hazardous waste rules, at 40 CFR§ 260 et. seq. The proposed rules add a number of federal rules that Wisconsin is not currently authorized by EPA to manage, such as air emission standards for containers and tanks, the recovery of precious metals and standards for boilers and industrial furnaces. The proposed rules incorporate updates to the federal rules, including rules that reduce the paperwork burden on generators, and allow alternate standards for soils from clean up sites, emergency response actions and activities at military installations.

The proposed rule would continue to require Wisconsin small quantity hazardous waste generators to submit annual reports and copies of designated facility-signed manifests for out-of-state hazardous waste shipments, and pay an annual, environmental repair fee for hazardous waste generated. However, the annual reports required of Wisconsin small quantity generators are significantly reduced in scope compared to the federal biennial report requirements for large quantity generators. Under the federal rules, small quantity generators are not required to submit biennial reports or copies of designated facility-signed manifests, or pay environmental repair fees.

The proposed rule would continue to require Wisconsin very small quantity hazardous waste generators to comply with: 1) container and tank standards, and 2) notification, manifest, exception reporting and manifest recordkeeping requirements, if they use a manifest. Under the federal rules, the equivalent conditionally exempt small quantity generators are not required to comply with these requirements.

The proposed rule would continue to require hazardous waste transporters operating in Wisconsin to be licensed by the WI DNR. Under the federal rules, hazardous waste transporters are not required to be licensed by U.S. EPA.

The proposed rule would continue to prohibit land treatment of hazardous waste. Under the federal rules, land treatment of hazardous waste is allowed if it meets the applicable requirements of Subpart M-Land Treatment of 40 CFR Part 264 or 265. The proposed rule also continues to prohibit underground injection of hazardous waste through a well, except for certain underground injection of contaminated groundwater as part of a remedial action necessary for the cleanup of soil or groundwater contamination. Under the federal rules, underground injection of hazardous waste is allowed if it meets applicable federal requirements.

The proposed rule would continue to regulate as hazardous waste: 1) household hazardous waste, which is separated from household waste and managed at a regulated collection facility, and 2) very small quantity generator hazardous waste. The proposed rule codifies the department's 1995 Interim Guidance for Household and Very Small Quantity Generator Hazardous Waste Collection Facilities. This is more stringent than federal requirements, but less stringent than fully regulating household and conditionally exempt small quantity generator hazardous waste collection facilities as hazardous waste management facilities.

Under the federal rules: 1) household waste is excluded from hazardous waste regulation, and 2) conditionally exempt small quantity generator waste is exempt from hazardous waste generator, transporter and treatment, storage and disposal facility requirements.

The process to obtain an operating license for treatment, storage or disposal facilities in Wisconsin is equivalent to the comparable federal facility permitting process, but also include unique state statutory requirements.

7. Comparison of similar rules in adjacent states (Minnesota, Iowa, Illinois and Michigan)

U.S. EPA authorization of state hazardous waste and used oil management programs ensure that they are at least as stringent as the federal programs on which they are based. Because the State of Iowa is not authorized to administer the federal RCRA hazardous waste or used oil management programs, U.S. EPA Region 7 administers those programs in that state. For a comparison of the proposed Wisconsin rules to the similar federal rules in effect in Iowa, see the previous section 6 (Summary of and preliminary comparison with any existing or proposed federal regulation).

EPA Region 5 has authorized the States of Illinois, Michigan and Minnesota to administer the federal RCRA hazardous waste management program in their respective states (except in Indian Country). Because the States of Illinois, Michigan and Minnesota are authorized, the authorized portions of their state hazardous waste management rules apply instead of the federal rules.

EPA Region 5 has authorized the States of Illinois and Michigan to administer the federal RCRA used oil management program in their respective states (except in Indian Country). In 1995, the State of Minnesota adopted used oil management rules that are based on the similar federal rules at 40 CFR Part 279. The State of Minnesota has not submitted a request to EPA Region 5 to be authorized for its used oil management program. Thus, EPA Region 5 has not reviewed the State of Minnesota's used oil

management program to determine whether it is at least as stringent as the federal used oil management program.

The State of Illinois hazardous waste and used oil management rules are similar to the federal rules on which they are based, with some adoption of the federal rules by reference. The State of Michigan adopts the federal rules by reference, but not entirely (i.e., some re-write and some material identical in substance). The State of Minnesota has adopted some of the federal rules by reference. Some of its earlier rules preceded RCRA and even though they are “equivalent”, they are different enough to make comparison to the federal regulations difficult. The State of Minnesota can also adopt some federal rules by reference prospectively.

Small Quantity Hazardous Waste Generator Comparison

Wisconsin: The proposed rule would continue to require Wisconsin small quantity hazardous waste generators to submit annual reports and copies of designated facility-signed manifests for out-of-state hazardous waste shipments, and pay an annual, environmental repair fee for hazardous waste generated. However, the annual reports required of Wisconsin small quantity generators are significantly reduced in scope compared to the federal biennial report requirements for large quantity generators.

Illinois: Illinois small quantity generators are not required to submit annual reports or copies of designated facility-signed manifests, or pay environmental repair fees. However, Illinois small quantity generators must submit a copy of each manifest after the generator and initial transporter signs it.

Iowa: Under the federal rules, Iowa small quantity generators are not required to submit biennial reports or copies of designated facility-signed manifests, or pay environmental repair fees.

Michigan: Michigan small quantity generators must submit a copy of: 1) each manifest after it is signed by the generator and initial transporter, and 2) each designated facility-signed manifest for out-of-state hazardous waste shipments. Michigan small quantity generators are not required to submit biennial reports or pay environmental repair fees.

However, Michigan small quantity generators must pay their share of tipping fees for hazardous waste they send to Michigan landfills or solidification facilities. The State assesses the tipping fees on the landfills and solidification facilities, and requires them to assess the fees on off-site generators they receive hazardous waste from. The State deposits the fees in its waste reduction fund.

Minnesota: Minnesota small quantity generators are not required to submit the information required for federal biennial reports. However, Minnesota small quantity generators must: 1) submit a copy of each manifest after it is signed by the generator and initial transporter, and 2) for out-of-state hazardous waste shipments, ensure that the designated facility submits a copy of each designated facility-signed manifest. Minnesota small quantity generators must also have a hazardous waste generator license and pay an annual, hazardous waste generator fee.

Very Small Quantity Hazardous Waste Generator Comparison

Wisconsin: The proposed rule would continue to require Wisconsin very small quantity hazardous waste generators to comply with: 1) container and tank standards, and 2) if they use a manifest, notification, manifest, exception reporting and manifest recordkeeping requirements.

Illinois: The equivalent Illinois conditionally exempt small quantity generators are not required to comply with: 1) container or tank standards, or 2) notification, manifest, exception reporting or manifest recordkeeping requirements.

Iowa: Under the federal rules, the equivalent Iowa conditionally exempt small quantity generators are not required to comply with: 1) container or tank standards, or 2) notification, manifest, exception reporting or manifest recordkeeping requirements.

Michigan: The equivalent Michigan conditionally exempt small quantity generators are not specifically required to comply with: 1) container or tank standards, or 2) notification, manifest, exception reporting or manifest recordkeeping.

However, Michigan conditionally exempt small quantity generators are required to store hazardous waste: 1) in an area where the waste is protected from weather, fire, physical damage, and vandals, and 2) so that hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation. Michigan conditionally exempt small quantity generators, who generate liquid hazardous waste or other liquid industrial waste, are required to comply with State liquid industrial waste manifest and exception reporting requirements

Minnesota: Minnesota very small quantity generators are required to comply with container and tank standards, and notification, manifest, exception reporting and manifest recordkeeping requirements. (Very small quantity generators located outside the Twin Cities seven county metropolitan area are not required to submit manifest copies to the State.) Minnesota very small quantity generators are also required to: 1) protect storage areas from unauthorized access and inadvertent damage from vehicles or equipment, 2) place containers holding free liquids on a containment surface that is impermeable to the waste stored and, if outside, is curbed, and 3) meet preparedness and prevention requirements. Minnesota very small quantity generators who accumulate acute hazardous waste, in quantities less than the large quantity generator acute hazardous waste accumulation limits, must comply with more stringent, small quantity generator accumulation requirements. Minnesota very small quantity generators must also have a hazardous waste generator license and pay an annual, hazardous waste generator fee.

Hazardous Waste Transporter Comparison

Wisconsin: The proposed rule would continue to require hazardous waste transporters operating in Wisconsin to be licensed by the WI DNR, as required by s. 291.23, Wis. Stats.

Illinois: Hazardous waste transporters operating in Illinois must be registered with and permitted in the Uniform Hazardous Materials Registration Program by the IL DOT, Uniform Hazardous Waste Program by the IL EPA or another reciprocal base-state.

Iowa: Under the federal rules, hazardous waste transporters operating in Iowa are not required to be registered with, or permitted or licensed by, U.S. EPA.

Michigan: Hazardous waste transporters operating in Michigan must be registered with and permitted in the Uniform Hazardous Materials Registration Program by the MI DEQ or another reciprocal base-state. Persons who transport liquid industrial waste in Michigan, which includes liquid, conditionally exempt

small quantity generator hazardous waste, must be registered with and permitted by MI DEQ for liquid industrial waste transportation.

Minnesota: Hazardous waste transporters operating in Minnesota must be registered with and permitted in the Uniform Hazardous Materials Registration Program by the MN DOT or another reciprocal base-state.

Hazardous Waste Land Treatment Comparison

Wisconsin: The proposed rule would continue to prohibit land treatment of hazardous waste.

Illinois: Land treatment of hazardous waste is allowed if it meets the State's hazardous waste land treatment requirements.

Iowa: Under the federal rules, land treatment of hazardous waste is allowed if it meets the applicable requirements of Subpart M-Land Treatment of 40 CFR Part 264 or 265.

Michigan: Land treatment of hazardous waste is allowed if it meets the federal requirements in Subpart M-Land Treatment of 40 CFR Part 264.

Minnesota: Land treatment of most hazardous waste is allowed if it meets the State's hazardous waste land treatment requirements. Facilities not in interim status are prohibited from placing listed hazardous wastes F020, F021, F022, F023, F026 and F027 in a land treatment unit.

Hazardous Waste Underground Injection Comparison

Wisconsin: The proposed rule would continue to prohibit underground injection (disposal) of hazardous waste through a well, except for certain underground injection of contaminated groundwater as part of a remedial action necessary for the cleanup of soil or groundwater contamination.

Illinois: Underground injection of hazardous waste is allowed if it meets applicable State requirements.

Iowa: Under the federal rules, underground injection of hazardous waste is allowed if it meets applicable federal requirements.

Michigan: Underground injection of hazardous waste is allowed if it meets applicable federal requirements. Before drilling a multi-source commercial hazardous waste disposal well, or converting a well to such a well, a person is required to have a Michigan construction permit, for an on-site treatment facility and storage facility.

Minnesota: Minnesota rules prohibit the discharge of sewage, industrial waste or other wastes directly into the saturated zone by injection wells or other devices used for the purpose of injecting materials into the saturated zone.

Household Hazardous Waste and Very Small Generator Collection Facility Comparison

Wisconsin: The proposed rule would continue to regulate as hazardous waste: 1) household hazardous waste, which is separated from household waste and managed at a regulated collection facility, and 2)

very small quantity generator hazardous waste. The proposed rule would codify the Department's 1995 Interim Guidance for Household and Very Small Quantity Generator Hazardous Waste Collection Facilities. This is more stringent than federal requirements (see Iowa below), but less stringent than fully regulating household and very small quantity generator hazardous waste collection facilities as hazardous waste management facilities.

Illinois: Same requirements as Iowa below, except the Illinois non-hazardous waste landfill rules do not allow the disposal of hazardous waste in a landfill regulated under those rules.

Iowa: Under the federal rules: 1) household waste is excluded from hazardous waste regulation, and 2) conditionally exempt small quantity generator waste is exempt from hazardous waste generator, transporter and treatment, storage and disposal facility requirements. Thus, Iowa facilities that collect only these wastes do not need to comply with hazardous waste management requirements.

Michigan: Household waste is excluded from hazardous waste regulation. Michigan facilities that collect only excluded household waste do not need to comply with hazardous waste management requirements. However, Michigan facilities that collect and store limited quantities of conditionally exempt small quantity generator waste are regulated similar to small quantity hazardous waste generators, except they may send the collected waste to a Michigan solid waste storage, treatment or disposal facility. This is more stringent than federal requirements (see Iowa above), but less stringent than fully regulating conditionally exempt small quantity generator waste collection facilities as hazardous waste management facilities.

Minnesota: Household waste is exempt from Minnesota hazardous waste regulation, except for: 1) waste collected by a household hazardous waste management program, and 2) spent or waste household batteries collected by a household battery management program. Household hazardous waste management program operators are regulated similar to large quantity hazardous waste generators. The regulation of household battery management program operators varies depending on whether the batteries are recycled, and whether the operators speculatively accumulate or reclaim the batteries on-site.

Minnesota regulates very small quantity generator hazardous waste as hazardous waste, but has reduced requirements for very small quantity generator hazardous waste collection program operators. The program operators are regulated similar to large quantity hazardous waste generators. This is more stringent than federal requirements (see Iowa above), but less stringent than fully regulating very small quantity generator hazardous waste collection sites as hazardous waste management facilities. Minnesota household and very small quantity generator hazardous waste collection program operators are not allowed to send the collected waste to a Minnesota non-hazardous waste landfill.

Used Oil Transporter Comparison

Wisconsin: The proposed rule would continue to require used oil transporters operating in Wisconsin to have a solid waste collection and transportation service license issued by DNR..

Illinois: Most used oil transporters operating in Illinois must have an Illinois special waste identification number and be permitted by the State to haul special waste.

Iowa: Under the federal rules, used oil transporters operating in Iowa are not required to be registered with, or permitted or licensed by, U.S. EPA.

Michigan: Used oil transporters operating in Michigan must be registered with and permitted by the State to transport liquid industrial waste.

Minnesota: Used oil transporters operating in Minnesota are not required to be registered with, or permitted or licensed by, the State. However, used oil transporters based in the Twin Cities seven county metropolitan area may be required to be licensed by the county.

8. Summary of the factual data and analytical methodologies that the agency used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule: The intent has been to update the NR 600 series and NR 590 rules, and retain EPA authorization to administer the hazardous waste program, by paralleling the federal rules as much as possible. The reasons for this change are as follows:

- Portions of the existing Hazardous Waste (NR 600 series) and Used Oil (NR 590) rules are outdated.
- More federal rules have been promulgated and we need additional EPA authorization for these rules.
- Errors have crept into the rules over the years.
- Wisconsin-unique provisions added complexity and are not needed to effectively implement the hazardous waste program.
- Keeping the rules consistent with EPA using the Wisconsin-unique rules organization is difficult and often confuses the public and businesses on what is required.
- The DNR Waste Management Program must develop Wisconsin-unique guidance rather than using EPA guidance, which may not be an efficient use of limited resources.

In the rule development and review process, staff has identified the Wisconsin-unique provisions that are in the existing NR 600 series and NR 590 rules and made recommendations to only keep the Wisconsin unique requirements when needed to:

- Comply with Wisconsin statute.
- Address documented public health or environmental problems.
- Allow effective operation of the hazardous waste program.
- Maintain consistent facility standards with other appropriate WI environmental programs.
- Encourage safe recycling and reuse.

9. Any analysis and supporting documentation that the agency used in support of the agency's determination of the rule's effect on small businesses under s. 227.114, Stats., or that was used when the agency prepared an economic impact report: The department received Hazardous Waste Program authorization from EPA in 1986. Since that time, there have been numerous revisions to the federal requirements with the department lagging behind in seeking further authorization and implementing updates to existing authorization. In order to maintain authorization, the Wisconsin program must be at least equivalent to the federal requirements. Thus, our flexibility to do something different than required by federal requirements is limited.

10. and 11. Anticipated costs incurred by the private sector and Effects on small business, including how the rule will be enforced.

Note: If the costs are the same as under the current rules or are reduced under the proposed rules, no new costs are indicated in the summary (below).

The current rules regulate the management of hazardous waste, have significant impacts on the regulated community and were intended to be consistent with the EPA regulations with some exceptions (like specific Wisconsin statutory requirements). The proposed rules are again intended to be consistent with the EPA regulations and add the most recent EPA regulations to the rules.

The proposed rules will impact facilities that generate, transport, recycle, treat, store or dispose of hazardous waste. The largest parts of the current and proposed rules apply to treatment, storage and disposal facilities (TSDs), and none of the existing 18 TSDs are defined as small business (25 employees or \$5,000,000 in gross sales).

Like the current rules, the proposed rules will be enforced by department staff through compliance assistance, complaint follow-up and inspections. If a violation is found, the department uses a stepped enforcement process similar to the process it uses for other environmental programs. This stepped process includes the following:

- Notice of non-compliance, this is typically the first step in dealing with a problem and is usually done by a program specialist through a letter to the facility. It's expected that the facility, once notified of the problem will, correct the problem quickly.
- Notice of Violation, this is typically the second step in dealing with a problem and is a higher level of enforcement. Typically, the Notice of non-compliance hasn't resulted in the problem being resolved and this step includes an opportunity for a face to face meeting with program and enforcement staff. At this meeting, it's expected that the facility will make commitments to resolve the problem and will follow through.
- Referral to the Attorney General for prosecution and injunctive relief, when appropriate. Formal civil and criminal enforcement mechanisms and penalties for hazardous waste violations are established in subchapter V of ch. 291, Wis. Stats.

To help ensure consistency, the department will continue to use EPA's (Office of Enforcement and Compliance Assistance) guidance in evaluating the significance of violations and the level of response as part of our stepped enforcement process.

Ch. NR 660 - The purpose of this chapter is to provide definitions and general information regarding hazardous waste management. There are no new costs to the private sector or enforcement impacts to small business compared to the existing rules.

Ch. NR 661 - This chapter provides information for identifying solid wastes that are subject to regulation as hazardous waste, establishes criteria for identifying the characteristics of hazardous waste and a list of hazardous waste.

There are no new costs to the private sector or enforcement impacts to small business compared to the existing rules.

Ch. NR 662 - This chapter establishes standards for hazardous waste generators. The main administrative and waste management standards are as follows:

- Manifest requirements to track shipments of hazardous waste
- On-site accumulation in tanks or containers

- Record keeping, personnel training and annual reporting requirements

There are no new costs or enforcement impacts to the private sector over the existing rules with the exception of indirect cost increases due to the increased manifest, plan review and licensing fees for transporters and TSD facilities to which generators send their hazardous waste. TSDs in Wisconsin will see increased costs due to the plan review, licensing and manifest fees in ch. NR 670 of the proposed rules. There may be some indirect costs to small business due to the TSDs and transporters passing part or all of their increased fees back to their clients. These fees have not been increased in over ten years.

Ch. NR 663 - This chapter sets transportation standards for hazardous waste.

There are minor new costs (fees) to the private sector (transporters) of which some are considered small businesses.

Ch. NR 664/665 A to E - The purpose of these subchapters is to establish minimum standards that define the acceptable management of hazardous waste by facilities that treat, store or dispose (TSD) of hazardous waste. There are no new costs or enforcement impacts to the private sector compared to the existing rules with the exception of the proposed fee increases in ch. NR 670.

Ch. NR 664/665 F - This subchapter sets groundwater standards for hazardous waste facilities.

There are no new costs to the private sector compared to existing rules and there are no small businesses among the TSDs that are currently licensed in Wisconsin.

Ch. NR 664/665 G and H - These subchapters set closure and long-term care requirements for treatment, storage and disposal facilities.

There are no new costs to the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 664/665 I - This subchapter applies to all hazardous waste facilities that store containers of hazardous waste.

There are no new costs to the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 664/665 J - This subchapter applies to facilities that use tank systems for storing or treating hazardous waste.

There are no new costs to the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 664/665 K to O - These subchapters set design and operating requirements, including liner and closure requirements for specific types of treatment, storage and disposal facilities.

There are no new costs to the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 665 P and Q - These subchapters set design and operating requirements for specific types of units at treatment, storage and disposal facilities.

There are no new costs to the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 664 S and X, and 664/665 W - These subchapters set requirements for the following:

- Corrective action management unit rules
- New or existing drip pads to convey treated wood drippage, precipitation or surface water run-off to an associated collection system.
- Treat, store or dispose of hazardous waste in miscellaneous units.

There are no new costs to the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 664/665 AA, BB and CC - This subchapter applies to facilities that treat, store or dispose (TSD) of hazardous wastes. It applies specifically to air emission standards for process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes and licenses.

There are no new costs to the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 664/665 DD and EE - The requirements of this subchapter apply to facilities that store or treat hazardous waste in units designed as completely enclosed, self-supporting structures and who store munitions and explosive hazardous wastes.

There are no new costs to the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 665 R - This subchapter prohibits underground injection of hazardous waste except for specific department approved remedial activities.

There are no new costs to the private sector compared to existing rules and allows flexibility in site cleanup that will have a positive financial and enforcement impact on small business.

Ch. NR 666 F to H, M and N

These subchapter provides management standards for specific types of hazardous waste management facilities:

- Recyclable materials used in a manner constituting disposal (applied to or placed on the land)
- Precious metal recovery
- Reclamation of spent lead-acid batteries
- Hazardous waste burned in boilers and industrial furnaces
- Segregated military munitions
- Storage, treatment, transportation and disposal of low-level radioactive waste mixed with hazardous waste.

There are no new costs to the private sector or enforcement impacts to small business over the existing rules.

Ch. NR 666 HH - This subchapter sets minimum design and operating standards for temporary and permanent collection facilities that manage household hazardous waste and very small quantity generator waste.

Local units of government operate these facilities. There may be some minor costs to local government that are associated with the need to upgrade their collection facilities to meet the new design and

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operating standards, however, most already have been constructed to be in compliance with the proposed standards.

Ch. NR 668 - This chapter sets land disposal standards for hazardous wastes. There are no new costs to the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 670 - This chapter sets the requirements for hazardous waste treatment, storage and disposal facility licensing. These requirements incorporate specific state statutory requirements that differ from the federal regulations. There are some new costs through fees for licensing and plan reviews on the private sector compared to existing rules and there are no small business facilities affected.

Ch. NR 673 - This chapter sets standards for universal waste management, which are conditional exemptions from hazardous waste requirements for materials that are legitimately recycled. There are no new costs to the private sector or enforcement impacts to small business over the existing administrative rules.

Ch. NR 679 - This chapter sets out standards and requirements with respect to the management of used oil. There are no new costs to the private sector or enforcement impacts to small business over the existing rules.

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13. Place where comments are to be submitted and deadline for submission: To be determined.
